

CHAPTER 7 – PRE-AWARD SERVICE CONTRACT LABOR ACTIONS

7-1. General. Among the contracting agency's pre-award obligations are those that relate to ensuring that prospective contractors have complied with certain Affirmative Action reporting requirements as described below.

7-2. Assuring Prospective Contractor's Compliance with VETS-100 Reporting Requirement.

a. Any contractor or subcontractor with a contract of \$25,000 or more with the Federal Government must take affirmative action to hire and promote qualified Special disabled veterans, veterans of the Vietnam-era and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. Contractors and subcontractors with openings for jobs, other than executive or top management jobs, must list them with the nearest State Job Service (also known as State Employment Service) office. The requirement applies to vacancies at all locations of a business not otherwise exempt under the company's Federal contract. Qualified Vietnam-era and special disabled veterans receive priority for referral to Federal contractor job openings listed at those offices. The priority for referral is not a guarantee that referred veterans will be hired. Federal contractors are not required to hire those referred, but must have affirmative action plans. Contractors with 50 employees and a \$50,000 contract must have a written affirmative action plan. They must be able to show they have followed the plans and that they have not discriminated against veterans or other covered groups. They also must show that they have actively recruited Special disabled veterans, veterans of the Vietnam-era and any other veterans who served on active duty during a war on in a campaign or expedition for which a campaign badge has been authorized and disseminated all information internally regarding promotion activities.

b. As provided by FAR 22.1308(b), covered employers must file an annual VETS-100 report, which shows the number of target veterans in their work force by job category, hiring location, and number of new hires, including targeted veterans hired during the reporting period and the maximum number and minimum number of employees of such contractor during the period covered by the report. Instructions, information and follow-up assistance is provided to employers who do not understand the reporting and other legal requirements.

c. USACE personnel tasked with ensuring prospective contractor compliance with this obligation may access the DOL's Database of contractors having filed the required VETS-100 report at <http://vets100.cudenver.edu>.

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7-3. Pre-Award Clearance From the Office of Federal Contract Compliance Programs. If the estimated amount of the proposed service contract or subcontract is \$10 million or more, the contracting officer shall request clearance from the appropriate Office of Federal Contract Compliance Programs (OFCCP) regional office for the award of any contract, including any indefinite delivery contract or letter contract; or the modification of an existing contract for new effort that would constitute a contract award. Such clearance may be obtained as described below.

a. The OFCCP has established an on-line registry to facilitate procurement of the pre-award clearance. The registry provides information concerning Federal Contractors that have been reviewed by the OFCCP. These Federal Contractors have been found to be "In Compliance" with the Equal Employment Opportunity (EEO) regulations that the OFCCP is mandated to enforce. The information contained in this Registry covers a two year period prior to the date of search. The Registry is updated nightly and facilities reviewed more than 2 years ago are removed as new ones are added. This system provides information only for the specific Contractor Facility(s) requested. It does not provide information on the Parent Organization or other facility locations that have not been reviewed within the past two years. If a given facility is found to be "In Compliance", this does not imply that other sibling facilities under the same parent organization received the same favorable finding. USACE personnel tasked with ensuring that prospective contractors have been found to be "In Compliance" should first check the OFCCP's on-line Pre-award Registry at <http://www.dol-esa.gov/preaward/>. If the Contractor Facility in question is not found in this Registry, USACE personnel should contact the appropriate OFCCP Pre-Award Clearance Officer in their Regional area. Questions concerning the appropriate OFCCP Regional Office, USACE personnel may contact the OFCCP National Office, in Washington D. C., at area code (202) 693-0110. Preaward clearance for each proposed contract and for each proposed first-tier subcontract of \$10 million or more shall be requested by the contracting officer directly from the OFCCP regional office(s). Verbal requests shall be confirmed by letter or facsimile transmission.

b. When the contract work is to be performed outside the United States with employees recruited within the United States, the contracting officer shall send the request for a preaward clearance to the OFCCP regional office serving the area where the proposed contractor's corporate home or branch office is located in the United States, or the corporate location where personnel recruiting is handled, if different from the contractor's corporate home or branch office. If the proposed contractor has no corporate office or location within the United States, the preaward clearance request action should be based on the location of the recruiting and training

agency in the United States.

c. In the event, the prospective contractor's facility is not found within the Registry, the Contracting officer is required to obtain such clearance in writing. The contracting officer shall include the following information in the preaward clearance request:

(1) Name, address, and telephone number of the prospective contractor and of any corporate affiliate at which work is to be performed.

(2) Name, address, and telephone number of each proposed first-tier subcontractor with a proposed subcontract estimated at \$10 million or more.

(3) Anticipated date of award.

(4) Information as to whether the contractor and first-tier subcontractors have previously held any Government contracts or subcontracts.

(5) Place or places of performance of the prime contract and first-tier subcontracts estimated at \$10 million or more, if known.

(6) The estimated dollar amount of the contract and each first-tier subcontract, if known.